

MINUTES

SALINA BOARD OF ZONING APPEALS

City Commission Room 107

Thursday, May 17, 2007

MEMBERS Funk, Lange, Sanborn, Schmitt, Wilson and Worth
PRESENT:

MEMBERS
ABSENT: Morse

STAFF
PRESENT: Andrew, Asche, Burger and Herrs

Item #1. Approval of the minutes of the regular meeting of April 19, 2007.

The minutes of the regular meeting held on April 19, 2007 were approved as presented.

Item #2. Application #V07-4, filed by Galen and Karolen Thacker, requesting a variance to the off-street parking requirements in Section 42-553(1)m. of the Zoning Ordinance to reduce the number of required parking spaces for an apartment building from 30 spaces to 15 spaces. The subject property is legally described as Lots 6, 8 & 10, in Block 5 of the Woodland Addition to the City of Salina, Saline County, Kansas and addressed as 821 N. 2nd Street. Tabled at the April 19, 2007 meeting to allow the site plan to be revised to provide additional visitor parking.

Mr. Andrew presented the staff report with visual graphics which is contained in the case file. He pointed out the four additional parking stalls proposed at the south end of the parking lot.

Mr. Schmitt asked will he have to pave those extra four spaces?

Mr. Andrew stated if the Board votes to grant a variance that requires a prescribed number of spaces, even to get the fifteen spaces that would meet our current dimensional requirements he's going to have to do some additional paving along the east edge next to 2nd Street. But certainly if you say that he needs to provide more than the fifteen spaces then those spaces would have to be paved.

Mr. Schmitt asked are there any questions?

Mr. Worth asked how many additional spaces would there be under this proposal?

Mr. Andrew stated this proposal increases the number of spaces from fifteen, or one per unit, to twenty.

Mr. Wilson stated this letter that we got today Dean it mentions something about kitchen vents, it's kind of implying it doesn't meet the code. Has that been inspected, has all that work done according to the code?

Mr. Andrew stated all the required plumbing and electrical inspections according to our records have been done on the property.

Mr. Wilson stated ok.

Mr. Andrew stated the questions in this particular letter go back to prior ownership of the building, pre-1990, and also an alternative plan for the building that I am not aware of.

Mr. Wilson stated ok, thanks.

Mr. Sanborn asked in your opinion Dean this letter does not look like it pertains to anything that we are addressing today which is parking, would that be your opinion?

Mr. Andrew stated we are certainly going to need to respond to this letter item by item.

Mr. Sanborn asked but that shouldn't effect what we are doing here today?

Mr. Andrew stated the issue here today is what is the impact of having twenty parking spaces or fifteen parking spaces on the use of the public street and adjacent property. The letter is not specific to the parking request that is in front of you. The questions about how this building became efficiency apartments, those are for us to address. Your issue is whether there is sufficient parking for the use that is being made of the property.

Mr. Schmitt asked any further questions? Seeing none, Mr. Thacker would you like to step to the podium?

Mr. Thacker stated I didn't get that other letter until last week.

Mr. Wilson asked what is your name?

Mr. Thacker stated Mr. Frick's letter.

Mr. Schmitt stated no, please state your name for the record.

Galen Thacker, 2339 Aurora, stated there's a couple of discrepancies in there. First of all, when I bought that building down there I started bidding on it at \$35,000 because the only other person that was bidding on it was Ben Frick. I had no idea what I was going to do with it at that time. I didn't know whether I was going to have to take two units to make one or three units to make two. I had no idea. Mr. Frick said that I knew for a fact that it needed thirty parking units. I didn't even speak to the man. I never talked to him. I don't know where he got that information at. I called the people who owned Focus on the Future, they had never recalled anything ever being said about needing thirty parking spaces for apartment units there. I called the auctioneer, the auctioneer didn't recall anything being said about that. I just went down there on the spur of the moment and hadn't seen the place until about 15-20 minutes before the auction. Mr. Frick didn't come to the auction until they started auctioning it off. So I don't know where he got his information. But it was wrong. He said he had to sell it to the Focus on the Future at a loss. As I recall when he bought that property he got it along with the Flamingo Hotel when he bought it as a bankruptcy sale. He got it all for \$118,000 if I'm correct. I thought about buying it myself at that time but I didn't go to the auction. But he sold that portion to Focus for \$80,000. I don't know who's doing his math for him but I can't see how he lost money. He's concerned about parking in the street on both sides because emergency vehicles can't get down through it. They do on 2nd Street and 3rd Street and they're the same width. It's malarkey. One of the reasons you don't want somebody to park on the street is that they could stick in that hole on that street and break a leg. I don't think we really need more than fifteen parking spaces. We had a little flood out there. Probably a lot of you had a flood at your places. But the more concrete we put on the ground the less absorption we're going to have. If any of you went out to 2nd Street and to the west of the property to the north of me you would see it was cemented. Did any of you look at it? It's about 18 inches higher on one side. It's on my side that the cement was poured. The last 8 ft. or so kind of hangs over on to my property. So we already have issues on that. I try to get along with everybody. I tried to clean it up and I tried to get some people in there. Get people a reasonable place to live. I don't want to have any problems. I think we've done a good job. I went to the City before I started to see what we could do. I went and talked to the building inspector and they told us what we had to do on the plumbing to bring it up to code and what we had to do for electrical. We did it all with no questions asked. We had ceilings in there about 5 ft. x 12 ft. and we sheet rocked over it with 5/8 inch sheet rock for fire protection.

Mr. Wilson stated Mr. Thacker I don't think we're questioning the remodeling of the inside. I guess you've seen the proposed new parking with twenty spaces. Would that be satisfactory with you?

Mr. Thacker stated yes. I tried to work with Dean and all of them and we had no problem.

Mr. Wilson stated it works as far as I'm concerned, I think.

Mr. Thacker stated I just didn't want Mr. Frick coming down here and saying "I'm going to come in here and I'm going to be a thorn in your side if you decide to let him have less than thirty parking spaces".

Mr. Wilson stated in my opinion considering they are efficiency apartments and so on I think twenty spaces is enough because you have fifteen apartments and if there's guests there are five extras. So I would support that. But I'd like to say to the rest of the people here I think if we approve this we're setting a precedent so later on if somebody else comes to us with a similar problem I think I would be obliged to support the next person. So I will support this even though it's not two places per unit. But I do think we're setting a precedent here.

Mr. Thacker stated I don't think you're really setting a precedent because it isn't any different than people going out and breaking the law. People break the law you might do six years in jail and then someone else might go out and break the law and do twenty-five years in jail.

Mr. Wilson stated what I meant was the regulations say two parking stalls per apartment so if we vote for this we would be giving you a variance and in my own opinion I would say that would be a precedent for me so if somebody else came by later with the similar problem I would be inclined to vote for them. It has nothing to do with you.

Mr. Thacker stated I know. But most of the things you do as a Board here is setting a precedent on something. Like the guy last month whose lot was too little for the house he was building on it. You let the man put the house on it and you didn't say "well now let's back off here a little bit and maybe you ought to put a one bedroom house on there instead of three".

Mr. Wilson stated if that had not been approved with pre-existing conditions then we would have been against it.

Mr. Thacker stated mine would be approved with pre-existing conditions. His wasn't really pre-existing because the other house was off of there and had to be torn down. They had to put up another house. But it wasn't saying for him to put a smaller house on there.

Mr. Worth stated I agree we are setting a precedent but we as a Board have to consider each case or each application on it's own merit. Sometimes there would be a reason to vary from the precedent.

Mr. Thacker stated that is what I'd like you to do for me. It's like we're doing this for you and then when someone else comes along. I don't think

someone else is going to come along with something like this unless it's another motel or something.

Mr. Sanborn stated I think what we're saying is that if we had the like circumstances, in other words the property has been properly converted by the City standards for apartments versus a hotel, which you have done, then there is consideration. But when those are not being done then it's not setting the same precedent.

MOTION: Mr. Funk stated I for one am happy with the staff recommendations on page 8. We would give a variance to go from thirty to twenty spaces. Mr. Chairman if you're ready for a motion, I'd like to move we approve Application #V07-4 with the five recommendations on page 8 of the report.

SECOND: Mr. Lange.

Mr. Wilson stated as a point of discussion I would say there is no need to number the stalls.

Mr. Sanborn stated just to clarify your motion.

Mr. Thacker stated what we did was we asked the people to park on the south side and the others to park on the north side. We have had no problem with that.

Mr. Sanborn stated just some clarification on the recommendation, you're suggesting not only the conditions 1-5, but you're also recommending that we approve the lesser variance from thirty spaces to twenty which means those additional spaces would need to be installed.

Mr. Funk stated not just installed, paved.

Mr. Worth stated right. Installed and paved and with bumpers in front so that parking is controlled somewhat haphazardly.

Mr. Funk stated this is all in the staff recommendations.

Mr. Thacker asked does it have to be smooth finish?

Mr. Wilson stated the staff will work with you on the details.

Mr. Schmitt stated it's been moved and seconded that we approve a variance in this case. All those in favor say "aye", opposed same sign.

VOTE: Motion carried 6-0.

Item #3. Application #V07-5, filed by Jones-Gillam Architects and Engineers on behalf of USD #305, requesting a fence height variance of 6 ft. from 4 ft.

(the maximum fence height allowed within a front yard) to 10 ft. to allow a 10 ft. chain link fence to be installed on a front property line to enclose a new tennis facility. The subject property is the Central High School campus bounded by Crawford Street, Roach Street, McAdams Road and Front Street and addressed as 650 E. Crawford Street.

Mr. Andrew stated Mr. Chairman this application since the time it was placed on the agenda has now been withdrawn. The recent rain events convinced the school district that because of some drainage and flooding problems around the McAdams - Front Street area that it was probable that building the tennis courts in that location was only going to aggravate the situation not improve it. So they are seeking another location more to the center of the campus which wouldn't require the setback variance or the height variance for the fence since it will not be in the front yard setback area. So that application has been officially withdrawn.

Item #4. Other matters.

Mr. Andrew asked I don't know if you were able to locate that slide John that I was asking about?

Mr. Burger stated I was able to locate our ordinance on the parking requirements for various types of housing. Unfortunately the other file is on Laurie's personal drive.

Mr. Andrew stated ok. We will not have any additional matters for you this afternoon. I'm not certain, we are working with some individuals, but at this time we don't have any items currently scheduled for the June meeting. But we will notify you well in advance.

Mr. Schmitt stated seeing no other matters we are adjourned.

Meeting adjourned at 4:27 p.m.

Dean Andrew, Secretary

ATTEST